

§ 1902.15 Closing accounts.

When FmHA or its successor agency under Public Law 103-354 loan or grant funds and those of any other lender or grantor have all been properly expended or withdrawn, Form FmHA or its successor agency under Public Law 103-354 402-6 may be used to give FmHA or its successor agency under Public Law 103-354's consent (and of another lender or grantor, if involved) to close the supervised bank account in the following situations:

(a) When FmHA or its successor agency under Public Law 103-354 loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, after completion of authorized loan funds expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with Rural Development or another lender, as appropriate.

(c) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as "active."

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA or its successor agency under Public Law 103-354 indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(i) Ordinarily, upon notice of the death of a borrower, the Servicing Official will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's Rural Development indebtedness. When the State

Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor's name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA or its successor agency under Public Law 103-354's countersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA or its successor agency under Public Law 103-354 and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA or its successor agency under Public Law 103-354 official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA or its successor agency under Public Law 103-354 indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA or its successor agency under Public Law 103-354 borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA or its successor agency under Public Law 103-354, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or

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services performed in accordance with the deceased borrower's plans approved by FmHA or its successor agency under Public Law 103-354.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the Servicing Official will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA or its successor agency under Public Law 103-354 indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of Rural Development grant funds in accordance with 7 CFR part 1951, subpart B or

(iv) For the return of grant funds to other grantors.

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "active."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to Rural Development and has properly expended all funds advanced by other lenders. In such cases the Servicing Official will:

(i) Notify the borrower in writing that the interests in the account of Rural Development have been terminated, and

(ii) Inform the borrower of the balance remaining in the supervised bank account.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 54 FR 47196, Nov. 13, 1989; 66 FR 1569, Jan. 9, 2001; 70 FR 59228, Oct. 12, 2005]

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

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(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA or its successor agency under Public Law 103-354, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA or its successor agency under Public Law 103-354's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17-1902.49 [Reserved]

§ 1902.50 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the OMB and have been assigned OMB Control Number 0575-0158.

[70 FR 59228, Oct. 12, 2005]

EXHIBIT A TO SUBPART A OF PART 1902 [RESERVED]

EXHIBIT B TO SUBPART A OF PART 1902— UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354—INTEREST-BEARING DEPOSIT AGREEMENT

BECAUSE certain funds of _____ referred to as the "Depositor," are now on deposit with the _____, referred to as the "Financial Institution," under a Deposit Agreement, dated _____, 20____, providing for supervision by the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interest in the funds covered by that Deposit Agreement, and

BECAUSE certain of these funds are not now required for immediate disbursement and it is the desire of the Depositor to place these funds in interest-bearing deposits with the Financial Institution:

THEREFORE, the Depositor and the Government authorize and direct the Financial Institution to place _____ Dollars